

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

January 24, 2000

At 9:32 a.m., the court met in the Library & Courts Building for a continuation of the court calendar session. Present: Scotland, Presiding Justice; Blease, Associate Justice; Morrison, Associate Justice; and Rios, Bailiff.

C030690 THE PEOPLE v. VASQUEZ

Cause called. Phillip M. Brooks, court appointed counsel, argued for appellant. Laura Wetzel Simpton, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:50 a.m., court recessed. At 9:55 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Nicholson, and Associate Morrison.

C030281 In re the Marriage of KNAPP

Cause called. No appearance was made on behalf of appellant in pro per. Jay-Allen Eisen argued for respondent. Cause submitted.

At 10:00 a.m., court recessed. At 10:04 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Nicholson, and Associate Justice Morrison.

C029728 U-HAUL COMPANY OF CALIFORNIA v. DEPARTMENT OF MOTOR VEHICLES

Cause called. John E. Carne argued for appellant. John D. Schell, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:30 a.m., court recessed. At 10:32 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Blease, and Associate Justice Morrison.

C030388 THE PEOPLE v. LOCKETT

Cause called. Elaine Forrester, court appointed counsel, argued for appellant. Charles A. French, Deputy Attorney General, argued for respondent. Cause submitted.

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January 24, 2000 continued

At 10:59 a.m., court recessed. At 2:01 p.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Callahan, and Associate Kolkey.

C029263 THE PEOPLE v. FOSTER

Cause called. Sandra Gillies, court appointed counsel, argued for appellant. Brett H. Morgan, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:30 p.m., court recessed. At 2:34 p.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Morrison.

C031049 WILKINS et al. v. DEPARTMENT OF TRANSPORTATION

Cause called. John Panneton argued for appellant. Kevine M. Corrington argued for respondent Department of Transportation. Cause submitted.

At 3:04 p.m., court recessed until 9:30 a.m., January 25, 2000.

C027215 THE PEOPLE v. CURTIS et al. (Not for Publication)

The judgment is affirmed.

HULL, J.

I concur: Raye, J.

I concur fully except for part III as to which I concur in the result.

Nicholson, Acting P.J.

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The Minutes

January 25, 2000

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of the court calendar session. Present: Davis, Acting Presiding Justice; Raye, Associate Justice; Callahan, Associate Justice; and Conrad, Bailiff.

C028698 HELIX ELECTRIC, INC. v. SACRAMENTO REGIONAL TRANSIT DISTRICT et al.

Cause called. Robert W. O'Connor argued for appellant. James P. Wiezel argued for real party in interest-respondent. David W. McMurtry argued for respondent. Mark W. Gilbert, Chief Legal Counsel, appeared for respondent Sacramento Regional Transit but did not argue. Cause submitted.

At 10:05 a.m., court recessed. At 10:07 a.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Raye, and Associate Justice Callahan.

C031062 DEPARTMENT OF CORRECTIONS v. WORKERS' COMPENSATION APPEALS BOARD et al.

Cause called. Don E. Clark argued for petitioner. Jeffrey N. Estey argued for respondent Blue Cross of California. Cause submitted.

At 10:36 a.m., court recessed. At 10:42 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Callahan.

C030635 THE PEOPLE v. SCOTT

Cause called. Alfons G. Wagner, court appointed counsel, argued for appellant. John G. McLean, Deputy Attorney General, argued for respondent. Cause submitted.

Court adjourned at 10:55 a.m., until 9:30 a.m., February 14, 2000

C029613 DELGADO v. COUNTY OF COLUSA

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Sims, J.

Raye, J.

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January 25, 2000 continued

- C023438 ALLSTATE INSURANCE COMPANY v. MEL RAPTON INC. et al.**
(Not for Publication)
The judgment entered in favor of Mel Raption is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 26(a).)
SCOTLAND, P.J.
We concur: Davis, J.
 Nicholson, J.
- C031939 MADYOON v. MEDPARTNERS, INC. et al.**
(Not for Publication)
The judgment is reversed. Defendants are awarded their costs on appeal.
 DAVIS, J.
We concur: Scotland, P.J.
 Raye, J.
- C029687 THE PEOPLE v. FLUCKES**
(Not for Publication)
The judgment is reversed.
 DAVIS, J.
I concur: Nicholson, J.
Because the trial court's instructions on assault with a firearm appear to be consistent with the California Supreme Court's holding in People v. Colantuono (1994) 7 Cal. 4th 206, I believe that we must affirm the judgment is accordance with Auto Equity Sales, Inc. v. Superior Court (1962) 57 Cal. 2d 450, at page 455.
 Scotland, P.J.
- C028425 THE PEOPLE v. FLYNN**
(Not for Publication)
The judgment is affirmed.
 CALLAHAN, J.
We concur: Raye, Acting P.J.
 Morrison, J.

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- C031391 THE PEOPLE v. BISSETT (Not for Publication)**
The 60-day sentence for misdemeanor assault is stayed pending service of the sentence for dissuading a victim/witness, the stay to become permanent upon completion of the 6-year term. The judgment is affirmed in all other respects.
RAYE, J.
We concur: Davis, Acting P.J.
 Callahan, J.
- C031151 THE PEOPLE v. MORRIS (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Davis, Acting P.J.
 Callahan, J.
- C032039 THE PEOPLE v. HIGGS (Not for Publication)**
The conviction is affirmed. The finding that defendant had a prior conviction under the three strikes law is stricken, and the sentence is vacated. The case is remanded for resentencing.
RAYE, J.
We concur: Scotland, P.J.
 Kolkey, J.
- C030227 THE PEOPLE v. THOMPSON (Not for Publication)**
The judgment is affirmed.
CALLAHAN, J.
We concur: Nicholson, Acting P.J.
 Morrison, J.

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- C030277 In re QUENICA M.; HUMAN SERVICES AGENCY v. MARY J.**
(Not for Publication)
The order terminating the guardianship of the minor is reversed, and the matter is remanded to the juvenile court, which is directed to conduct a new hearing on the petition, using the clear and convincing standard of proof. Pending the outcome of that hearing, the minor shall remain out of the custody of appellant.
BLEASE, Acting P.J.
We concur: Sims, J.
 Hull, J.
- C031140 COUNTY OF EL DORADO v. BLOCH**
(Not for Publication)
The judgment is affirmed.
 RAYE, J.
I concur: Scotland, P.J.
I concur in the result:
 Kolkey, J.
- C030471 NORCAL MUTUAL INSURANCE COMPANY v. BLAIR et al.**
(Not for Publication)
The judgment is affirmed.
 NICHOLSON, J.
We concur: Sims, Acting P.J.
 Davis, J.
- C032693 THE PEOPLE v. SPAULDING**
(Not for Publication)
The judgment is affirmed.
 BLEASE, Acting P.J.
We concur: Davis, J.
 Hull, J.
- C030922 THE PEOPLE v. LEWIS**
(Not for Publication)
The judgment is affirmed.
 RAYE, J.
We concur: Scotland, P.J.
 Kolkey, J.

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- C030331 THE PEOPLE V, BUTTERFIELD (Not for Publication)**
The trial court's order striking the punishment provided for by Health and Safety Code section 11370.2, subdivision (c) is vacated. The matter is remanded to the trial court for reconsideration, in conformity with this opinion, of its motion to strike. If the court declines to strike the additional punishment provided by the enhancement, it shall permit defendant the opportunity to withdraw her plea.
CALLAHAN, J.
We concur: Scotland, P.J.
Hull, J.
- C032841 In re SARA D.; BUTTE COUNTY CHILDREN'S SERVICES DIVISION v. MACHELLE D. et al. (Not for Publication)**
The orders of the juvenile court are affirmed.
HULL, J.
We concur: Blease, Acting P.J.
Callahan, J.
- C032040 IMPERIAL POOLS, INC. v. GILSTRAP (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
Davis, J.
- C032780 JEANIE H.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. MICHELLE H. (Not for Publication)**
The orders of the juvenile court are affirmed.
SIMS, Acting P.J.
We concur: Davis, J.
Callahan, J.
- C032667 FARMER'S RICE COOPERATIVE v. WORKERS' COMPENSATION APPEALS BOARD and MARGARET DIAS (Not for Publication)**
The award is affirmed.
BLEASE, Acting P.J.
We concur: Davis, J.
Callahan, J.

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- C032529 THE PEOPLE v. POHLMANN (Not for Publication)**
The judgment is modified to strike the section 1202.45 fine. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections.
HULL, J.
We concur: Scotland, P.J.
 Davis, J.
- C033276 In re ELIZABETH R.; SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES v. JAMES R. (Not for Publication)**
The orders of the juvenile court are affirmed.
HULL, J.
We concur: Scotland, P.J.
 Raye, J.
- C031022 THE PEOPLE v. THOMAS, SR. (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
 Davis, J.
- C032815 In re WILLIE R.; THE PEOPLE v. WILLIE R. (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Sims, Acting P.J.
 Morrison, J

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- C029961 THE PEOPLE v. WASHINGTON (Not for Publication)**
The judgment is modified to award defendant a total of 69 days of presentence custody credits in case No. 107609 and 727 days of presentence custody in case No. 95F06373. As modified, the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment in accordance with the foregoing and to forward a copy to the Department of Corrections.
HULL, J.
We concur: Scotland, P.J.
 Davis, J.
- C032101 THE PEOPLE v. O'LEAR (Not for Publication)**
The judgment on count 2, receiving stolen property, is reversed. (See People v. Black, supra, Cal. App. 3d at p. 535.) The trial court is directed to modify the abstract of judgment accordingly and to forward a copy of the amended abstract to the Department of Corrections. As modified, The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
 DAVIS, J.
- C031003 In re the Marriage of PRESUTO (Not for Publication)**
The judgment is affirmed.
NICHOLSON, Acting P.J.
We concur: Callahan, J.
 Kolkey, J.
- C031433 CURRAN v. READY MORTGAGE COMPANY (Not for Publication)**
The judgment is reversed and the matter remanded for entry of a new order overruling defendant's demurrers. Plaintiff is entitled to his costs on appeal.
HULL, J.
We concur: Sims, Acting P.J.
 Davis, J.